UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

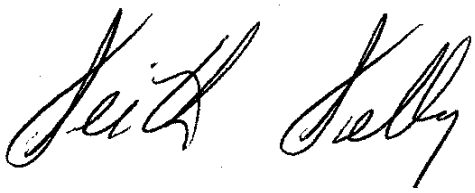
For: State and County Offices

Notice FLP-54

1951-J, 1951-S,
1955-A, 1956-B, 1962-A

Collecting and Resolving Delinquent FLP Debts

Approved by: Administrator



1 Overview

A Background

Notice FC-190 was issued May 29, 1998, to provide guidance on processing debt settlements and monitoring judgment and charge off cases. The approval authorities and asset verification requirements of Notice FC-190 were incorporated into RD Instruction 1956-B.

Notice FLP-11 was issued December 7, 1998, to establish new approval authorities for debt settlement of nonprogram loans.

Notice FLP-23 was issued February 5, 1999, to provide clarification to FmHA Instruction 1951-S, section 1951.909(a)(2), concerning release of liability for divorced spouses who have received prior debt forgiveness.

Notice FLP-43 was issued March 23, 1999, to direct State and County Offices to comply with RD Instruction 1956-B, section 1956.70(b)(3) when canceling debt discharged under bankruptcy.

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Disposal Date	Distribution
July 1, 2001	State Offices; State Offices relay to County Offices

1 Overview (Continued)

B Purpose

This notice:

- consolidates and obsoletes Notices FC-190, FLP-11, FLP-23, and FLP-43

  Note: The guidance in Notices FLP-11 and FLP-23 is reissued without change.

- provides clarification to FmHA Instruction 1951-S, section 1951.909(a)(2), concerning release of liability for divorced spouses who have received prior debt forgiveness

- provides clarification concerning COC responsibilities with regard to settlement of FLP debt

- establishes approval authority for settlement of nonprogram loans

- directs State and County Offices to comply with RD Instruction 1956-B, section 1956.70(b)(3) when canceling debt discharged in bankruptcy

- provides direction on servicing judgment accounts.

C Contacts

If there are any questions about this notice:

- County Offices shall contact the State Office
- State Office shall contact Bruce Mair, LSPMD.

2 Release of Liability for Divorced Spouses Who Have Received Prior Debt Forgiveness

A
Release of Liability With No Loss to the Government

The Consolidated Farm and Rural Development Act (CONACT), (sections 353(m) and 373(c)), prohibits more than 1 debt forgiveness for each borrower in the direct loan programs. The definition of "debt forgiveness" in section 343(a)(12) requires a loss to the Secretary.

SED or Administrator may approve the release of liability for divorced spouses who have received prior debt forgiveness if the transaction completed according to FmHA Instruction 1951-S, section 1951.909(a)(2), will **not** result in a loss to the Government.

Example: A divorced spouse withdraws from the operation and qualifies for release of liability under section 1951.909(a)(2), except for the requirement concerning individual debt forgiveness. **The spouse who will continue with the operation shows repayment ability for the debt**. The release of liability of the divorced spouse may be approved by SED or Administrator because it will not result in a loss to the Government. Therefore, the spouse's release from liability is not debt forgiveness under CONACT, section 373(c).

3 COC Responsibilities

A
COC Action

COC will review and recommend or not recommend approval of all debt settlement or release of liability cases, except the following:

- debt settlements negotiated and approved by the Department of Justice (DOJ)
- debt settlements referred to DOJ by the Agency for approval
- FSA debt which has been discharged in bankruptcy
- when OGC determines FSA is legally barred from seeking a judgment.

4 Approval Authority for Settlement of Nonprogram Loans

A
SED Authority

SEDs are authorized to:

- approve or reject proposed debt settlements of nonprogram loans when the outstanding balance of the indebtedness involved in the settlement, less the amount of any compromise or adjustment offer, is less than $1,000,000, including principal, interest, and other charges

- recommend to the National Office, or reject proposed debt settlements of nonprogram loans when the outstanding balance of the indebtedness involved in the settlement, less the amount of any compromise or adjustment offer, is $1,000,000 or more

- approve cancellation of nonprogram loans discharged under Chapter 7, 11, 12, or 13 bankruptcy, regardless of the amount of the outstanding debt

  Note: All such settlements must comply with RD Instruction 1956-B, section 1956.70(b)(3).

- process nonprogram debt settlements negotiated and approved by DOJ, regardless of the size of the outstanding debt

  Note: The case files must be documented to reflect the DOJ decision.

- approve cancellation, compromise, or adjustment of debts previously charged off by SED, if the account is not under the jurisdiction of the U.S. Department of Treasury or DOJ.

Exception: Debtors who have received prior debt forgiveness may only receive additional debt forgiveness, including charge off, according to RD Instruction 1956-B, Exhibit B.

SEDs shall **not** redelegate the authorities in this paragraph.

5 Canceling Debt Discharged in Bankruptcy

A Using RD Instructions to Cancel Debts

FSA procedures currently provide the following two methods for canceling debt discharged in bankruptcy.

- RD Instruction 1962-A, section 1962.47(f)(1) and (g) states that debt will be canceled using FSA 1962-21. This is an internal procedure which has not been published in the C.F.R.

  - To avoid duplication, FSA 1962-21 is no longer required.

  - FSA personnel must comply with all other requirements of RD Instruction 1962-A, section 1962.47 when servicing accounts in bankruptcy.

- RD Instruction 1956-B, section 1956.70(b)(3) states that debt will be canceled using FmHA 1956-1.

  Note: This procedure has been published in the C.F.R. FLP is working to eliminate this procedure but, because of regulation streamlining, has not had the resources to do so.

  Since RD Instruction 1956-B, section 1956.70(b)(3) is published in the C.F.R., and until it is eliminated, FSA must comply with this regulation when canceling debt discharged in bankruptcy.

6 Judgments

A Judgment Debts

In States with judicial foreclosure, as soon as the foreclosure judgment is obtained, prepare FmHA 1962-20 and process 3B ADPS transaction according to RD Instruction 1955-A, section 1955.15(f)(4).

- Process foreclosure judgments to the account so that the interest rate on the account will start accruing interest at the Treasury Bill rate as of the date the judgment is filed, instead of the loan rate. This will provide servicing officials with the correct unpaid balance when determining bidding at the foreclosure sale.

- When the judgment is recorded, the borrower's account will no longer be reflected on RC 540. However, continue to use AGCREDIT to monitor the foreclosure in County Offices, and State Offices shall continue using the State Office Tracking System.

The foreclosure judgment shall remain on the account until after the foreclosure sale.

IF...	THEN...
a money judgment was not or will not be requested	the case should be considered for debt settlement upon receipt of the U.S. Attorney's letter that the case is closed.
a money judgment is obtained in any State	**process a 3B transaction to record the judgment amount.** Any amount above the judgment amount shall be canceled without application with a 3K debt settlement transaction according to RD Instruction 1956-B, section 1956.84(a)(1)(iii).

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6 Judgment Debts (Continued)

B
Settlement of Money Judgments

Money judgment debtors, whose judgment account has not been charged off, shall be reviewed on an annual basis according to RD Instruction 1962-A, section 1962.49(e)(3)(iii). From this review, the servicing official will determine whether any action should be referred to the U.S. Attorney or if the judgment debt could be charged off without release of liability under RD Instruction 1956-B, section 1956.75(a). Document the case file to show that the review was made and what attempts were made to resolve the account.

IF the...	THEN the...
U.S. Attorney has not closed the case and the debtor wishes to make a compromise or adjustment offer	offer and any related payment shall be sent to the U.S. Attorney for approval or rejection.
U.S. Attorney has closed the case	judgment debt may be charged off according to RD Instruction 1956-B, section 1956.75(a) under either of the following conditions: • the debtor has disappeared and cannot be found without undue expense, there are no known assets or future debt-paying ability, and all the security has been liquidated or disposed of • 2 years has elapsed since any collections were made on the judgment, and the debtor has no equity in property on which the judgment is a lien or on which it can presently be made a lien.
judgment is satisfied or released for less than full payment	• account should be canceled as a nonjudgment debt according to RD Instruction 1956-B, after obtaining acknowledgment from the U.S. Attorney indicating the judgment has been satisfied or released and the case closed • SEDs will process the debt settlement according to RD Instruction 1956-B, section 1956.84(a)(1)(iii) or Exhibit B.

Note: DOJ will not be requested to renew or revive a dollar judgment unless there is a reason to believe that substantial assets have or may become subject thereto.

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6 Judgment Debts (Continued)

C
County Office Tracking of Money Judgments

When a judgment is recorded in the borrower's account, the borrower is no longer reflected on RC 540. No other Finance Office report is available to the County Office for tracking these cases. Therefore, it will be necessary for County Offices to track judgment cases in AGCREDIT according to the following table.

Step	Action
1	• "OTHER" to "JUDGMNT" when a money judgment has been obtained and any remaining debt has been debt settled. • In supporting activities on the Judgment Screen, enter the date the judgment was filed and when it will expire, which is 20 years after the date of judgment in Federal court. • Change the planned due date to reflect the annual review date. **Note:** The "JUDGMNT" code is not to be used for foreclosure judgments. Foreclosures are tracked separately from money judgments in the normal tracking of liquidation.
2	Immediately: • enter any outstanding judgments that are not being tracked in AGCREDIT by initializing them in ag90 under category "CAT310", "NP B 30 Days Past Due" • "OTHER" to "JUDGMNT" and follow step 1.
3	From "JUDGMNT", "OTHER" to "CLDT302" to track the debt settlement if the judgment account is later charged off or the debt canceled if the judgment is released or satisfied.
4	Take the following steps to run reports from AGCREDIT to obtain a list of judgment accounts.

Step	Action
1	On the Main Menu, select "G", "Report Options Menu".
2	On the Report Options Menu, select "I", "Print Report of Open Activities with Outcomes and Activities", select "y", and PRESS "Enter".
3	ENTER "JUDGMNT" on the activity code line, "Ctrl X", and select "Y" to exit.
4	Select "option D", "sort order by last name", and select "Option A" to indicate that sort selection is completed. **Result:** The report will prepare in the background

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6 Judgment Debts (Continued)

D
State Office Tracking of Judgments

State Offices can obtain a list of judgment cases through AGCREDIT according to subparagraph C and through FOCUS. FOCUS Report JUDTYP10:

- can be copied from ID #AFN187 and modified by changing line 55 to reflect the appropriate State
- will not distinguish these accounts between foreclosure or money judgments
- was revised to remove RHS court cost accounts.

Judgment accounts can be identified by the third and fourth digit of the fund code, as follows:

- 00 means judgments against the borrower
- 08 means third-party judgments.

7 FLP Directives

A
Restrictions on Issuing FLP Directives

State Offices wanting to issue additional information about this notice must follow 1-AS, paragraph 220.

B
Obsolete Notices

Notices FC-190, FLP-11, FLP-23, and FLP-43 are obsolete.